



## SCHOOL OF LAW

### Interdisciplinary Environmental Clinic

October 17, 2014

Freedom of Information Act Coordinator  
U.S. EPA Region 5, Air and Radiation Division  
77 West Jackson Blvd.  
Chicago, IL 60604-3590

Subject: Freedom of Information Act Request  
Title V Permit No. V-IL-1716300103-08-01  
Veolia ES Technical Solutions, LLC  
7 Mobile Avenue, Sauget, IL, 62201

Dear Sir or Madam:

On behalf of the American Bottom Conservancy (ABC), the Interdisciplinary Environmental Clinic at Washington University School of Law is requesting the following documents pursuant to the Freedom of Information Act. As this request may involve voluminous records, we request that the documents be provided as they are located and that they be provided electronically rather than in hardcopy if possible.

Pursuant to a discussion with Region 5 officials on September 30, this request limits the scope of our previous request number EPA-R5-2014-010471 in order to address various agency concerns regarding that request. Except as otherwise provided, Region 5 may exclude any documents previously provided to the Interdisciplinary Environmental Clinic in response to its September 2012 FOIA request number 05-FOI-01384-12 and any documents that are part of the permit record posted on [www.regulations.gov](http://www.regulations.gov) for draft Title V Permit No. V-IL-1716300103-2014-10. Further, Region 5 may exclude any deliberative and attorney-client privileged documents and communications, but the Interdisciplinary Environmental Clinic requests a log or index of all withheld information designated as "deliberative" or "privileged." Lastly, Region 5 may exclude any documents and communications that contain "confidential business information" pursuant to a claim made by Veolia, but the Interdisciplinary Environmental Clinic requests a log or index of all documents and communications withheld pursuant to such a claim.

### **Requested Records**

1. Any documents and all correspondence (by mail, facsimile, electronic mail, or any other means) related to the significant modification of Permit No. V-IL-1716300103-08-01 proposed by EPA in January 2013.
2. Any documents and all correspondence (by mail, facsimile, electronic mail, or any other means) related to Veolia's April 2013 application for renewal of Permit No. V-IL-1716300103-08-01 and all documents and correspondence (by mail, facsimile,

electronic mail, or any other means), memoranda, notes, and reports pertaining to EPA's review of that application.

3. Any documents and all correspondence (by mail, facsimile, electronic mail, or any other means) related to the comprehensive performance testing of Veolia's three incinerators in September and October 2013 and all documents and correspondence (by mail, facsimile, electronic mail, or any other means), memoranda, notes, and reports pertaining to EPA's review of that testing.

### **Request for Fee Waiver**

On behalf of ABC, we request a fee waiver under FOIA. ABC actively works to protect and preserve the air and water quality in the American Bottom, an area that encompasses 175 square miles of the Mississippi flood plain. ABC is a non-profit organization and member of the Illinois Environmental Justice Advisory Group that actively educates the public about threats to the environment, both directly through its relationships with the affected communities and in partnership with other organizations. For the reasons set forth below, ABC satisfies the EPA's criteria for a FOIA fee waiver.

1. *The subject matter of the requested records must specifically concern identifiable operations or activities of the government.*

The requested documents were either created or obtained by EPA, which is a government organization, in the course of interpreting, implementing and enforcing the federal Clean Air Act.

2. *For the disclosure to be "likely to contribute" to an understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.*

The requested documents will be meaningful to ABC and its members, who are concerned about air pollution in Sauget and the Metro East region, as well Veolia's compliance with the Clean Air Act. Veolia's Sauget, Illinois facility is a complex operation, and the governing air pollution laws are also complex. ABC, with the help of the Interdisciplinary Environmental Clinic, assists the public in understanding the facility, its impacts on the environment, and its legal obligations.

3. *The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requester or a narrow segment of interested persons. One's status as a representative of the news media alone is not enough.*

ABC has numerous means of conveying information to the public as well as its members. ABC works with other organizations and the general public, and with the help of the Interdisciplinary Environmental Clinic makes complex technical and legal information available to the public. ABC plans the following specific actions to disseminate the

information obtained via this request and inform the public at large:

- Develop a fact sheet based on the information received about Veolia's facility and the proposed renewal permit. The fact sheet will simplify the complex legal and technical language so that it is understandable to the public at large. ABC will distribute this fact sheet to its members, environmental advocacy groups, and community members;
- Distribute all documents received to an array of influential not-for-profit and environmental advocacy groups in both the Metro East and St. Louis areas;
- Contact and share pertinent information with the media in hopes of getting one or more stories about the facility and the proposed renewal permit published in local papers in both Missouri and Illinois;
- Schedule one or more events in order to disseminate any information it receives regarding the negative health and environmental effects of the facility and to gather community members' input about the proposed renewal permit so it can include individual testimonials and other contributions in comments on the proposed renewal permit it will be submitting to EPA.

4. *The disclosure must contribute "significantly" to public understanding of governmental operations and activities.*

Compliance with the Clean Air Act is a complex issue of enormous significance to the residents of the Metro East region, including those near Veolia's Sauget, Illinois facility. The requested documents will enable ABC to help members of the public understand complex issues regarding Veolia's obligations under the Clean Air Act.

In the past, ABC has played an important role in informing the public about pertinent information relating to Veolia's impact on the health, safety, and welfare of the residents of Sauget and the surrounding Illinois cities and counties known as the Metro East. Generally, ABC facilitates community members' understanding of the complex technical and legal information that underlies Veolia's Title V permit, helping the residents of the Metro East understand the facility's environmental and health impacts. For example, when EPA released a draft modified permit in January 2013, ABC contacted other organizations in the area and shared information about the proposed modification that it had obtained via a previous and substantially similar FOIA request (05-FOI-01384-12), for which a fee waiver was granted.

In fact, EPA Region 5 has long recognized ABC's role in disseminating information about the Veolia facility to the public. Last March Region 5 contacted ABC for assistance developing its own public participation plan in regard to the pending renewal of Veolia's Title V permit, just as it had sought ABC's help developing a public participation plan for the permit modification it proposed in 2013. ABC plans to do similar active outreach in connection with any documents received in response to this request, as discussed above.

5. *The extent to which file disclosure will serve file requester's commercial interest, if any.*

AND

6. *The extent to which the identified public interest of disclosure outweighs the requester's commercial interests.*

ABC, as part of its mission, advocates for environmental justice. In addition to the enumerated factors above, the subject of this request implicates important environmental justice considerations. The population around Veolia's Sauget facility demonstrates the need for particularly close attention to environmental conditions, which ABC helps provide. The population of Sauget and the neighboring communities of Cahokia and East St. Louis is 86.7% minority and 37.1% live below the poverty level. This contrasts starkly with the population of St. Clair County as a whole, of which only 35.4% is minority and 15.5% live below the poverty level.

ABC is a non-profit, grassroots organization that has no commercial or economic interest in obtaining the requested documents. As advocates for environmental justice, ABC requests the documents enumerated in the Request for the purpose of informing the community about the environmental impacts of the Veolia facility and making informed comment on the draft renewal permit.

We hope this demonstrates that ABC is entitled to a fee waiver with respect to this FOIA request. If there is any additional information required to process this request, please contact me by email at [alanasiegel@wustl.edu](mailto:alanasiegel@wustl.edu) or by phone at (314) 935-6368.

Sincerely,

Alana Siegel  
Law Student  
Interdisciplinary Environmental Clinic  
Washington University School of Law  
One Brookings Drive, Campus Box 1120  
St. Louis, MO 63130